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#21

In re Application of :
Klaus neueer et al :
Serial No.: 09/738,212 : PETITION DECISION
Filed: December 15, 2000 :
Attorney Docket No.: 4-118-8353B :

This is in response to the petition under 37 CFR 1.181, filed July 15, 2004, for withdrawal of abandonment of the above identified application.

A review of the file history shows that the Board of Patent Appeals and Interferences mailed a decision to applicants on November 10, 2003. The decision affirmed the rejection of claim 33 under 35 U.S.C. 112, second paragraph, and a provisional obvious double patenting rejection of claims 21-30 and 33. A two month period for taking further action began with the mailing of the decision. Upon failure to receive any further reply the application was held abandoned by Notice of Abandonment mailed to applicants on March 15, 2004. Applicants state that a reply canceling claim 33 and providing a proper terminal disclaimer was filed on January 8, 2004 and provide copies thereof with properly executed Certificates of Mailing. The originals of these papers have not been located and the copies supplied with the petition will be utilized. In view of the timely submission the Notice of Abandonment was mailed in error and is withdrawn and the application restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the examiner for further action.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 703-872-9306.


Bruce M. Kisliuk
Director, Technology Center 1600